

United States District Court

DISTRICT OF _____

APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF
FEES AND AFFIDAVIT

Plaintiff

V.

Defendant

05 CASE NUMBER: 11365 WGY

I, Richard W. Comerford declare that I am the (check appropriate box)
☒ petitioner/plaintiff/movant ☐ other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 U.S.C. §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated?: ☐ Yes ☒ No (If "No" go to Part 2)

If "Yes" state the place of your incarceration _____

Are you employed at the institution? _____ Do you receive any payment from the institution? _____

Have the institution fill out the Certificate portion of this affidavit and attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? ☐ Yes ☒ No

- a. If the answer is "Yes" state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

Note: I have not been discharged from AGR duty pursuant to 10 USC 1168 The Army is not paying me.

- b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

Self employer since @ 1973. U.S. Department of Defense - last paid for April 1996 - amount unknown

3. In the past twelve months have you received any money from any of the following sources?

- | | | |
|---|------------------------------|--|
| a. Business, profession or other self-employment | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| b. Rent payments, interest or dividends | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| c. Pensions, annuities or life insurance payments | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| d. Disability or workers compensation payments | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| e. Gifts or inheritances | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| f. Any other sources | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

If the answer to any of the above is "yes" describe each source of money and state the amount received and what you expect you will continue to receive.

Affidavit In Support of Motion for Leave to Appeal in Forma Pauperis

CLERK'S OFFICE

JUN 23 PM 1:01

I, Richard W. Comerford, state under the penalty of perjury that the following information is true to the best of my knowledge as of the date of my signature below.

Statement of Assets

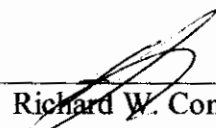
1. I am a pauper.
2. I am unable to pay the fees for appeal or give security therefor
3. I do not have or own income, interest, dividends, saving, gifts, alimony, retirement, disability, unemployment, public assistance, automobile, apartment or real estate.
4. I have no debt.

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Background

5. I have served in the armed forces of the United States since 1971.
6. My sole employer and paymaster since 1973 has been the United States.
7. I was honorably discharged from active duty in 1984.
8. I subsequently served on Active Guard and Reserve ("AGR") duty pursuant to 32 USC 502(f).
9. In 1992 I qualified for early retirement from the armed forces pursuant to 10 USC 3911.
10. In 1993 I was injured rescuing a comrade.
11. In 1994 a line of duty investigation found that I had been injured in the line of duty.
12. I was certified as incapacitated by my commander in 1994.

13. My medical care and pay was stopped after I was injured in the line of duty without due process. I have not been discharged from AGR duty pursuant to 10 USC 1168.
14. The government has refused to either pay me, or discharge me or provide me with permission to collect civilian employment benefits since 1996.
15. In 1996 the U.S. Army Inspector General ("IG") found: a) I had been injured in the line of duty in 1993; b) I was improperly denied medical care and pay after I had been injured; c) I was improperly separated from active duty. The IG recommended that I be returned to active duty.
16. After I communicated with the IG and my Member of Congress ("MC") on this matter the government unlawfully retaliated against me with adverse personnel actions to include trying to frame me for the purported theft of over \$105,000.00 in federal funds. In 1993 approximately two weeks after I filed a whistleblower civil action U.S. Army Criminal Investigation Agents fraudulently established probable cause that I purportedly stole the aforementioned funds – after the U.S. Attorney's officer refused to prosecute me for said purported theft citing lack of evidence. In 2003 the government wrote to my MC and informed him that it had favorably "amended the establishment" of probable cause.
17. I used my savings to retain legal counsel. My legal counsel abandoned me. I preceded pro se. In 1993 the government notified my MC that the establishment of probable cause had been favorably amended.
18. In 1997 a medical duty review board found: a) I had been injured in the line of duty in 1993; b) I had not been fit for duty since 1994, c) I was not medically fit for continued service.
19. In 1998 the U.S. Department of Defense IG referred my case to the Army Board for Correction of Military Records ("ABCMR"). The ABCMR in violation of 10 USC 1552 has essentially sat on my case since 1998.
20. Without a discharge certificate (DD Form 214) I cannot collect retirement, veterans, civilian employment or public-assistance benefits. I am a legal and social non-entity as well as a pauper.
21. I survive by the grace of God and the love of my wife.


Richard W. Comerford Pro Se

Date: 21 June 05